



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

July 29, 2008

REGISTERED MAIL
RB 670 357 250 US

R.S. Tanaka, Commanding Officer
Naval Base Kitsap
120 S. Dewey Street
Bremerton, WA 98314

Dear Captain Tanaka:

RE: Water Quality Certification Order #5408 for U.S. Army Corps of Engineers
Reference #NWS-2007-844-SO, CVN Maintenance Wharf Replacement Project,
Sinclair Inlet, Bremerton, Kitsap County, Washington

On June 13, 2007, you submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act (CWA) for the proposed CVN Maintenance Wharf Replacement project. The Corps issued a joint public notice for a Section 404 and Section 10 Permit on January 11, 2008, for the proposed project. A request to withdraw and re-apply for a 401 Certification was submitted on May 29, 2008. Ecology issued a second public notice on June 9, 2008.

The project includes demolishing and replacing the existing 74,400 square foot CVN Maintenance Pier B with a larger wharf, upgrading the existing Quaywall 729, and improving the strength of the western wall of Dry Dock 6 in order to increase efficiency of aircraft carrier maintenance and seismically upgrade the pier system.

On behalf of the State of Washington, through the enclosed Order, Ecology certifies that the work described in the June 13, 2007, JARPA and the January 11, 2008, public notice complies with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, as amended and applicable state laws. This certification is subject to the conditions contained in the enclosed Order.



R.S. Tanaka, Commanding Officer
Naval Base Kitsap
July 29, 2008
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If you have any questions, please contact Rebekah Padgett at (425) 649-7129 or email at rp461@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,



Erik Stockdale
Northwest Regional Office
Shorelands and Environmental Assistance Program

ES:rrp:cja

Enclosure

cc: Koko Ekendiz, U.S. Army Corps of Engineers
Kathy Kunz, U.S. Army Corps of Engineers
Jo Anne Vidinhar, City of Bremerton
Denice Taylor, Suquamish Tribe
Tom Ostrom, Suquamish Tribe
Nancy Harney, U.S. Environmental Protection Agency
Erika Hoffman, U.S. Environmental Protection Agency
Chris Waldbillig, Washington Department of Fish and Wildlife
Tom McDowell, U.S. Fish and Wildlife Service
Martha Jensen, U.S. Fish and Wildlife Service
Shandra O'Haleck, NOAA Fisheries
Peter Havens, U.S. Navy
Matt Butler, U.S. Navy

e-cc: Joe Burcar – NWRO
Jeanne Tran – NWRO
Ted Benson – HQ
Ben Forson – HQ
Kathy Taylor – HQ
Loree' Randall – HQ
Raman Iyer – NWRO
Alice J. Mauser jmauser@centurytel.net

IN THE MATTER OF GRANTING A)	ORDER #5408
WATER QUALITY)	Corps Reference No. NWS-2007-844-SO
CERTIFICATION TO)	CVN Maintenance Wharf Replacement; Sinclair
R.S. Tanaka, Commanding Officer,)	Inlet, Bremerton, Kitsap County, Washington.
Naval Base Kitsap)	
in accordance with 33 U.S.C. 1341)	
(FWPCA § 401), RCW 90.48.120, RCW)	
90.48.260 and Chapter 173-201A WAC)	

TO: R.S. Tanaka, Commanding Officer
Naval Base Kitsap
120 S. Dewey Street
Bremerton, WA 98314

On June 13, 2007, R.S. Tanaka, Commanding Officer, Naval Base Kitsap, submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification. A joint public notice regarding the request was distributed by the U.S. Army Corps of Engineers (Corps) for the above-referenced project pursuant to the provisions of Chapter 173-225 WAC on January 11, 2008. A request to withdraw and re-apply for a 401 Certification was submitted on May 29, 2008. Ecology issued a second public notice on June 9, 2008.

The proposed CVN Maintenance Wharf Replacement project includes:

- Removal of existing 85,694-square-foot Pier B
- Construction of a new 151,125-square-foot wharf at the site of Pier B.
- Replacement of Quaywall 729 and integration of the new proposed pier with the existing foundation of the quaywall with the new wharf, and the west wall of Dry Dock 6. The concrete structure, fender piles, fender framing, concrete decking, and steel catwalk of the existing Quaywall 729 will be removed.
- Strengthen the west wall of Dry Dock 6 by widening the dry dock by 17 feet to meet seismic stability requirements. This work includes removing existing riprap from the substrate to drive in a retaining wall up to 17 feet west of the western side of the dry dock along its entire 1,000-foot length, and placement of this riprap within the area of proposed fill. Clean fill will be placed over the riprap into this contained area.
- Construction of supporting facilities, including a new electrical substation, utility trenches, conduit banks, steam and condensate lines, and a trench drain for collection of storm drainage with oil/water separation. Upland improvements include relocation of a security gate and extension of portal crane rails along the full length of the pier.

Approximately 824 concrete piles, 652 creosote-treated piles, and 10 steel piles will be replaced with approximately 328 24-inch solid octagonal concrete piles, 78 36-inch hollow cylindrical concrete piles, 115 18-inch steel batter piles, and 116 14-inch steel "H" piles.

Proposed mitigation includes:

- Remove Pier 8: Removal of existing 24,800 square foot Pier 8, including 138 creosote-treated piles.
- Restoration of Keyport Lagoon: Return the 24-acre brackish lagoon to a saltwater marsh and intertidal mudflat by removing the concrete sill structure and 40-foot bridge and installing two 42-foot span arch culverts. A channel will be excavated through each new opening.

The project is located at Puget Sound Naval Shipyard and Intermediate Maintenance Facility, Pier B, Bremerton, Kitsap County, Washington, Sinclair Inlet, in Section 23, T. 24 N., R. 1 E., WRIA 15.

The Pier 8 mitigation site is also located at the Puget Sound Naval Shipyard and Intermediate Maintenance Facility, east of Pier B.

The Keyport Lagoon mitigation site is located at Keyport Naval Undersea Warfare Center, Keyport, Kitsap County, Washington, Liberty Bay, in Section 36, T. 26 N., R. 1 E., WRIA 15.

AUTHORITIES:

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has examined this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §§ 1311, 1312, 1313, 1316, and 1317 (FWPCA §§ 301, 303, 306 and 307);
2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. § 1313 and by Chapter 90.48 RCW, and with other applicable state laws; and
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

WATER QUALITY CERTIFICATION CONDITIONS:

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will not violate applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. § 1341, RCW 90.48.120, RCW 90.48.260 Chapter 173-200 WAC

and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

A. General Conditions:

- A1. For purposes of this Order, the term "Applicant" shall mean R.S. Tanaka, Commanding Officer, Naval Base Kitsap, and his agents, assignees and contractors.
- A2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Northwest Regional Office, Attn: 401/CZM Federal Project Manager, 3190 160th Avenue SE, Bellevue, WA 98008-5452. Any submittals shall reference Order #5408 and Corps Reference #NWS-2007-844-SO.
- A3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on June 13, 2007, the Application Update Status dated December 21, 2007, the Project Description dated January 16, 2008, and the revised site plans dated January 9, 2008. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in the JARPA is voided by subsequent changes to the project not authorized by this Order.
- A4. Within 30 days of receipt of an updated JARPA, Ecology will determine if the revised project requires a new water quality certification and public notice or if a modification to this Order is required.
- A5. This Order shall be rescinded if the U.S. Army Corps of Engineers does not issue a Section 10 permit and a Section 404 permit.
- A6. Copies of this Order shall be kept on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.
- A7. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.

- A8. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (*e.g.*, violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect water quality.
- A9. The Applicant shall ensure that all appropriate project engineers and contractors at the project site have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology a signed statement (see Attachment A for an example) from each project engineer and contractor that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology before construction begins at the project or mitigation sites.
- A10. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this Order.
- A11. Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000) per violation for each day of continuing noncompliance.

B. Water Quality Conditions:

- B1. This Order does not authorize a temporary turbidity exceedance beyond the limits established in WAC 173-201A-210(1)(e)(i) for Sinclair Inlet or Liberty Bay. Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup or surface waters or sediments occurring as a result of project construction or operations.
- B2. In-Water Construction Water Quality Sampling and Monitoring at Pier B and Pier 8: Except as modified by this Order, water quality sampling and monitoring for Pier B and Pier 8 shall be implemented as described in the following document:
- *Water Quality Monitoring Plan, P-356 CVN Maintenance Pier Replacement (Pier B), Naval Base Kitsap, Bremerton, Washington, dated 7/29/08.*
- B3. In-Water Construction Water Quality Sampling and Monitoring at Keyport Lagoon: A Water Quality Protection and Monitoring Plan (Plan) shall be developed and implemented. "In-water construction" is defined as all work below the ordinary high water mark of Keyport Lagoon/Liberty Bay.

The Applicant shall submit the Plan for Ecology review and approval per Condition #A2 at least 20 days prior to the start of in-water work.

The Plan shall include the following minimum requirements:

- a. Locations of samples: Locations of water quality sampling sites shall be identified and described in the Plan and on a map of the project area. At a minimum, sampling shall take place at the point of compliance as specified in WAC 173-201A-210(1)(e)(i), which allows a 150-foot temporary area of mixing for turbidity resulting from disturbance of in-place sediments in Keyport Lagoon/Liberty Bay. Background samples shall be collected outside the area of influence of the in-water work. Background samples shall be collected at the same frequency as the point of compliance samples.
- b. Number of samples: Number and frequency of water quality samples to be taken.
- c. Parameter to be sampled: Turbidity shall be sampled for this project.
- d. Equipment: Sampling for turbidity is to be accomplished using a turbidometer properly calibrated according to the operator's manual.
- e. Best Management Practices (BMPs): A description of the BMPs that will be used during construction to protect water quality.
- f. Detection of exceedances: Water quality standards for turbidity in "Excellent Quality" waters are as follows: turbidity shall not exceed 5 NTU over background conditions when the background is 50 NTU or less, or a 10 percent increase in turbidity when the background turbidity is more than 50 NTU. If exceedances of this standard at the point of compliance specified in WAC 173-201A-210(1)(e)(i) is detected through water quality sampling and monitoring, the Applicant shall immediately take action to stop, contain, and prevent unauthorized discharges or otherwise stop the violation and correct the problem. After such an event, the Applicant shall assess the efficacy of the site BMPs and update or improve the BMPs used at the work site in an effort to reduce or prevent recurrence of the turbidity exceedance.
- g. Reporting: If no exceedances are detected, results of water quality sampling, as determined by the Plan, shall be forwarded to Ecology on a monthly basis in accordance to Condition A2.
- h. Notification of exceedances: Notification of exceedances that are detected through water quality sampling shall be made to Ecology within 24 hours of occurrence.

Notification shall be made with reference to Order #5408, Attn: 401/CZM Federal Project Manager, by telephone at (425) 649-7129 or (425) 649-7000, or by fax to (425) 649-7098. The Applicant shall, at a minimum, provide Ecology with the following information:

- i. A description of the nature and cause of exceedance.
- ii. The period of non-compliance, including exact dates, duration, and times and/or the anticipated time when the Applicant will return to compliance.
- iii. The steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of the non-compliance.
- iv. In addition, within five (5) days after notification of an exceedance, the Applicant shall submit a written report to Ecology that describes the nature of the exceedance, turbidity results and location, photographs, and any other pertinent information.

C. Project Mitigation Conditions:

- C1. Impacts to aquatic resources shall be mitigated by removal of Pier 8 and restoration of Keyport Lagoon. Except as modified by this Order, mitigation measures are described in the following documents:
 - *CVN Maintenance Wharf Mitigation Plan, Naval Base Kitsap Bremerton, Bremerton, Washington*, dated June 2008.
 - *CVN Maintenance Wharf Mitigation Plan, Final Mitigation Plan Addendum, Responses to Agency Comments, Naval Base Kitsap Bremerton, Bremerton, Washington*, dated 7/25/08.
- C2. The Applicant shall submit the following documents for the Keyport Lagoon mitigation site to Ecology at least 60 days prior to start of construction per Condition A2 for review:
 - Topographic/bathymetric survey.
 - Hydraulic analysis.
- C3. The Applicant shall submit a Construction Plan for the Keyport Lagoon mitigation site to Ecology at least 60 days prior to start of construction per Condition A2 for review and approval. The Construction Plan shall include the following information:

- a. A detailed description of work.
- b. Site plans.
- c. Construction sequencing.
- d. Submittal dates for an As-Built Report and monitoring reports.
- e. Contingency/adaptive management plan.

- C4. Mitigation Contingency Measures: If the Applicant is unable to implement the Keyport Lagoon mitigation measures as proposed and approved by this Order, the Applicant shall submit to Ecology for its review and written approval a plan for alternative mitigation. The alternative mitigation plan shall be submitted to Ecology per Condition A2.

D. Conditions for In-Water and Over-Water Construction Activities:

General Conditions:

- D1. Construction stormwater, sediment, and erosion control BMPs (e.g., filter fences, etc.) suitable to prevent exceedances of state water quality standards shall be in place before starting construction at the site.
- D2. Sediment and erosion control measures shall be inspected and maintained prior to and during project implementation.
- D3. Work shall be accomplished per the best management practices described in the following documents, except as modified by this Order:
- *Biological Assessment and Essential Fish Habitat Assessment, CVN Maintenance Wharf, Puget Sound Naval Shipyard and Intermediate Maintenance Facility*, dated July 2006, pages 27-28.
 - *Addendum, Biological Assessment and Essential Fish Habitat Assessment, CVN Maintenance Wharf, Puget Sound Naval Shipyard and Intermediate Maintenance Facility*, dated May 2007, pages 14 and 16-17.
 - *Environmental Assessment, CVN Maintenance Wharf, Puget Sound Naval Shipyard and Intermediate Maintenance Facility*, dated 4/08, pages 3-4 to 3-5.
 - *Excerpt from Navy Construction Solicitation N44255-08-R-6000*, dated 11/7/07, Part 3, pages 15-18.
 - *Mitigation Summary*, dated 12/20/0[7], pages 1-9.
 - *Project Description*, dated 1/16/08, pages 3-4.

- D4. All construction debris shall be properly disposed of on land so that it cannot enter a waterway or cause water quality degradation to state waters.
- D5. Machinery and equipment used during construction shall be serviced, fueled, and maintained upland, unless otherwise approved by Ecology, in order to prevent contamination to any surface water.
- D6. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall be contained for proper disposal, and shall not be discharged into state waters or storm drains.
- D7. All pollutants (e.g., oil) from utility lines shall be completely captured and contained for proper disposal, and shall not be discharged into state waters or storm drains.
- D8. Clean Fill Criteria: Applicant shall ensure that fill (soil) placed for the proposed project does not contain toxic materials in toxic amounts.
- D9. The Applicant shall conduct concurrent geotechnical monitoring during construction in order to detect elevation changes. The Applicant shall notify Ecology within 24 hours if there is an unanticipated change in sediment elevation.
- D10. Re-use of concrete piles and rubble shall not be used as fill within the project area.

Work in Marine Waters:

- D11. During project demolition or construction, a containment boom and absorbent pads shall be placed around the perimeter of the work area to capture wood debris and other materials released into the waters as a result of construction activities. All accumulated debris shall be collected and disposed of upland at an approved disposal site.
- D12. During all in-water demolition work and new construction, silt curtains shall be deployed and maintained in a functional manner to contain suspended sediments at the work site.
- D13. The Applicant shall use tarps or other containment method when cutting or drilling over water to prevent debris, sawdust, concrete and asphalt rubble, and other materials from entering the water.
- D14. During construction, the Applicant shall have a boat available on site at all times to retrieve debris from the water.
- D15. All manmade debris that has been deposited below the Ordinary High Water Line within the construction work area shall be removed and disposed of upland such that it does not enter waters of the state. Concrete blocks, metal debris, cables, submerged timbers and

other debris in the construction work corridor that have washed into marine areas shall be removed from the project area.

- D16. Project activities shall be conducted to minimize siltation of the beach area and bed.
- D17. The Applicant shall operate the barge(s) and tug in deep water so as to minimize nearshore propeller wash impacts such as suspension of nearshore sediments.
- D18. Barges shall not be allowed to ground-out during construction.
- D19. If cast in place, wet concrete/grout shall be prevented from entering waters of the state. Forms for any concrete/grout structure shall be constructed to prevent leaching of wet concrete/grout. Impervious materials shall be placed over any exposed concrete/grout not lined with the forms that will come in contact with state waters. Forms and impervious materials shall remain in place until the concrete/grout is cured.
- D20. The Applicant shall minimize movement of riprap that will be repositioned for placement of the sheetpile wall in order to avoid impacts such as suspension of sediments. The riprap shall be picked up using a "thumb" mechanism and placed inside the sheetpile/fill area. The riprap shall not be pushed or pulled along the sediments.
- D21. The applicant shall implement BMPs for placement of sand at Pier B and Pier 8 as described in the following document, except as modified by this Order:
 - *NAVFAC NW Pier B, 7, & 8 Sand Blanket Scope of Work as related to Creosote Fender Pile Removal*, received 7/7/08.

Piling Removal Conditions:

- D22. Approximately 964 concrete piles shall be broken off or cut at the mudline and removed from marine waters.
- D23. Approximately 10 steel piles shall be cut at the mudline and removed from marine waters.
- D24. Approximately 790 existing creosote-treated pilings shall be removed from marine waters. All creosote-treated piling shall be removed by vibratory extraction. In the event these pilings break off during extraction, the remaining piling shall be cut at the mudline.
- D25. If a clamshell bucket is used, the Applicant shall use the smallest size bucket required to pull out creosote-treated piling in order to minimize disturbance to bottom sediments and splintering of piling.

- D26. If a clamshell bucket is used, the bucket shall be completely emptied of piling and debris into a containment basin as described in Condition #D28 before it is lowered into the water.
- D27. Piles, stubs, debris, and all associated excavated sediments shall be contained and prevented from entering waters of the state.
- D28. Piles removed from substrate: the pile shall be moved immediately from the water into the barge or onto uplands. The pile shall not be shaken, hosed-off, left hanging to drip or any other action intended to clean or remove adhering material from the pile.
- D29. Work surface on the barge deck or on uplands shall include a containment basin for piles and any sediment removed during pulling of the piling. Basins may be constructed of durable plastic sheeting with sidewalls supported by hay bales or support structure to contain all sediment.
- D30. The piles and any sediment removed during pulling of the piling shall be disposed of at an approved upland disposal site.

Pile Driving:

- D31. The new pilings shall be concrete or steel.
- D32. The concrete pilings shall be installed using an impact hammer.
- D33. The steel pilings shall be installed using a vibratory hammer whenever possible. An impact hammer may be used to proof pile, if needed.
- D34. Driving or proofing pile with an impact driver shall be done during tidal exposure or during low tide whenever possible in order to minimize in-water noise during installation.
- D35. If an impact hammer is used, a block of wood at least six (6) inches thick shall be placed between the impact pile driver and the pile, or a bubble curtain shall be employed, to minimize in-water noise during installation of steel piles 10 inches in diameter or less. The Applicant shall employ a bubble curtain during installation of steel piles greater than 10 inches in diameter when using an impact hammer. The bubble curtain shall be deployed in a manner to ensure that bubbles completely engulf the piles during the impact driving. If any fish are seen to be in distress, work shall immediately cease and a bubble curtain shall be deployed before the driving is completed.

Sheet Pile Wall Driving:

- D36. The new sheet pile wall shall be steel.

- D37. The steel sheet pile wall shall be installed using a vibratory hammer whenever possible. An impact hammer may be used to proof sheet pile, if needed.
- D38. If an impact hammer is used, a block of wood at least six (6) inches thick shall be placed between the impact pile driver and the sheet pile whenever feasible, to minimize in-water noise during installation of steel sheet pile.

E. Sediment Sampling Conditions:

Pier B and Pier 8:

- E1. Sediment sampling shall be accomplished per the *Final Pier B Replacement Sediment Monitoring Plan, Bremerton Naval Complex, Bremerton, Washington*, dated June 20, 2008, prepared by Department of the Navy, Naval Facilities Engineering Command Northwest.
- E2. Post-construction sampling shall be taken after all in-water construction has been completed and sand has been placed.

Keyport Lagoon:

- E3. The Applicant shall develop a sediment Sampling and Analysis Plan (SAP). The SAP shall be submitted to Ecology for its review and approval per Condition A2 at least 30 days before any sampling is scheduled to begin. Sampling shall not begin until Ecology provides written approval of the SAP.
- E4. The Applicant shall collect sediment samples from the lagoon, areas of proposed new sediment exposure at the new culvert locations, known locations of previous exceedances of Sediment Quality Standards or Cleanup Screening Level Standards, and any new dendritic channels deeper than 8 centimeters. The purpose of such sampling is to determine the quality of the biologically active zone that will exist in the area both before and after installation of the new culverts and increased communication of the lagoon with Liberty Bay. If comparison of pre- and post-action surface samples shows the surface sediment to be degraded (per WAC 173-204-120), the Applicant shall take appropriate action, as approved by Ecology, to restore sediment quality to original quality.
- E5. In-water work shall not begin until pre-construction sampling has been completed.

Sediment Sampling Data Submittal Condition:

- E6. Laboratory chemistry data shall be reported to Ecology in electronic Environmental Information Management (EIM) template format (EIM result data spreadsheets) which can be downloaded from "EIM Spreadsheets, Spreadsheet Help Documents, and Submittal Guidelines zip file" at <http://www.ecy.wa.gov/eim/submitdata.htm>. Laboratory chemistry data tabulated in spreadsheets shall also be reported to Ecology in hardcopy

format per Condition A2. Additional information about EIM data entry can be found in the sediment chemistry EIM data entry business rule in Subappendix E of the "Sediment Sampling and Analysis Plan Appendix," (downloadable from <http://www.ecy.wa.gov/pubs/0309043.pdf>) and help documents available at <http://www.ecy.wa.gov/eim/helpDocs.htm>.

F. Emergency/Contingency Measures:

- F1. The Applicant shall develop and implement a Spill Prevention and Containment Plan for all aspects of this project.
- F2. The Applicant shall have adequate and appropriate spill response materials on hand to respond to emergency release of petroleum products or any other material into waters of the state.
- F3. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters.
- F4. Any work that is out of compliance with the provisions of this Order, or conditions causing distressed or dying fish, or any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, is prohibited. If these occur, the Applicant shall immediately take the following actions:
 - a. Cease operations at the location of the violation or spill.
 - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - c. Notify Ecology of the failure to comply. All oil spills shall be reported immediately to Ecology's 24-Hour Spill Response Team at 1-800-258-5990, **and** within 24 hours of spills or other events to Ecology's 401/CZM Federal Project Manager at (425) 649-7129 or (425) 649-7000.
 - d. Submit a detailed written report to Ecology within five (5) days that describes the nature of the event, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.

Compliance with this condition does not relieve the Applicant from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.

- F5. Work in or near the water that may affect fish migration, spawning, or rearing shall cease immediately upon a determination by Ecology or Washington Department of Fish and Wildlife (WDFW) that fisheries resources may be adversely affected.

G. Timing Requirements

- G1. This Order is valid until all compliance requirements in this document have been met.
- G2. No in-water work at Pier B or Pier 8 shall occur between March 1st and June 15th of any year in which work is being conducted.
- G3. No in-water work at Keyport Lagoon shall occur between September 1 through June 14 of any year in which work is being conducted, without prior approval from Ecology or WDFW.

H. Reporting and Notification Requirement Conditions

- H1. Applicant shall provide notice to Ecology's 401/CZM Federal Project Manager at least three (3) days prior to the start of construction and within 14 days after completion of construction at the project site. Notification, referencing Corps Reference #NWS-2007-844-SO, Order #5408 can take place by telephone to (425) 649-7129 or (425) 649-7000, fax to (425) 649-7098, or in writing.

I. Appeal Process:

You have a right to appeal this Order. To appeal this you must:

- File your appeal with the Pollution Control Hearings Board within 30 days of the "date of receipt" of this document. Filing means actual receipt by the Board during regular office hours.
- Serve your appeal on the Department of Ecology within 30 days of the "date of receipt" of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10). "Date of receipt" is defined at RCW 43.21B.001(2).

Be sure to do the following:

- Include a copy of this document that you are appealing with your Notice of Appeal.
- Serve and file your appeal in paper form; electronic copies are not accepted.

1. To file your appeal with the Pollution Control Hearings Board

Mail appeal to:

Deliver your appeal in person to:

The Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

OR

The Pollution Control Hearings Board
4224 – 6th Ave SE Rowe Six, Bldg 2
Lacey, WA 98503

2. To serve your appeal on the Department of Ecology

Mail appeal to:

Deliver your appeal in person to:

The Department of Ecology
Appeals Coordinator
P.O. Box 47608
Olympia, WA 98504-7608

OR

The Department of Ecology
Appeals Coordinator
300 Desmond Dr SE
Lacey, WA 98503

3. And send a copy of your appeal to:

Department of Ecology
Northwest Regional Office
Attn: Rebekah Padgett
3190 160th Avenue SE
Bellevue, WA 98008

For additional information visit the Environmental Hearings Office Website:

<http://www.eho.wa.gov>

To find laws and agency rules visit the Washington State Legislature Website:

<http://www1.leg.wa.gov/CodeReviser>

Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43.21B.320. These procedures are consistent with Ch. 43.21B RCW.

Dated July 29, 2008 at Bellevue, Washington.



Erik Stockdale, Unit Supervisor
Shorelands and Environmental Assistance Program
Department of Ecology
State of Washington

ATTACHMENT A

**R.S. TANAKA
CVN MAINTENANCE WHARF REPLACEMENT PROJECT
Water Quality Certification Order #5408**

**Statement of Understanding of
Water Quality Certification Conditions**

I have read and understand the conditions of Order #5408 Section 401 Water Quality Certification for the CVN Maintenance Wharf Replacement Project. I have also read and understand all permits, plans, documents, and approvals associated with the project referenced in this Order.

Signature

Date

Title

Company